

Last Will and Testament

OF

GEORGE FREY,

DECEASED.

IN THE NAME OF GOD, AMEN! I, George Frey, of the town of Middletown, in the township of Swatara, in the county of Dauphin, and state of Pennsylvania, merchant, being of sound mind and good understanding, thank God, but knowing that we are all mortal, do make this my last Will and Testament. I bequeath my soul into the hands of my Lord and Saviour Jesus Christ, who redeemed me with his precious blood. And as to my worldly estate which the Lord has entrusted to and endowed me with, and which I would willingly so apply as that his holy name may be adored and praised through time and eternity: To this end I have concluded, with God's permission, to erect an Orphan-House, which shall be called "*Emaus*" at the place I have chosen for that purpose near my mill, where I have already built a house which is as yet incomplete. And whereas I am seized in my demesne, as of fee, of and in the following described lands, mill, houses, rents, tenements and hereditaments, that is to say: all that water grist-mill, situate on the bank of the Swatara creek, near Middletown, in the township and county aforesaid, with a right to a mill-race or canal through the lands late of John Fisher, deceased; also of two several tracts of land contiguous to each other, situate in the township and county aforesaid, containing four hundred and ninety-eight acres, and one-half acre which I purchased from Blair M'Clenachan; also one other tract of land which I purchased at different times from Andrew M'Clure, Roan M'Clure and Jonathan M'Clure, containing in the whole two hundred and eighty-four acres and one-quarter of an acre; also of several tracts of land and out-lots near or contiguous to the town of Middletown aforesaid, containing in the whole about one hundred and twenty acres, be the same more or less, also of four houses and lots of ground in the town of Middletown to wit: one thereof wherein I now dwell, one other thereof now in the occupancy of Charles M'Dowel, one other thereof now in the occupancy of Memucan I. Howel, and one other thereof now in the occupancy of Michael Hemperly; also of divers lots of ground containing within the metes of the town-plot or diagram of the aforesaid town of Middletown which are as yet unimproved by buildings thereon; and also of divers ground-rents issuing and payable to me out of various lots also contained within the metes of the town-plot or diagram aforesaid, all which will be made more fully appear by reference to my book entitled "*Grund Renthe von Middletown.*" Now to carry into effect and fulfill the charitable and benevolent purpose aforesaid, I do hereby devise and bequeath all my lands, mill, houses, out-houses, lots of ground, and ground-rents above men-

tioned and in part described, hereditaments and premises with their and every of their appurtenances, situate, lying and being in the township of Swatara aforesaid, in the said county of Dauphin, to John Landis, merchant, Doctor Charles Fisher, of Middletown, Jacob Rife, of Derry township, John Cassel, of Swatara township, yeomen, and the survivors or survivor of them, and to the heirs and assigns of such survivor, to hold to them and the survivors and survivor of them and the heirs and assigns of such survivor, upon this especial trust and confidence, and to no other use, intent or purpose whatever, that is to say, in trust and to the intent that the said trustees shall permit and suffer my beloved wife Catharina, during her natural life, to reside in my present dwelling-house, and to use and enjoy all and singular my personal property in and about the same house, and the lot of ground whereon it is built, with the appurtenances, in as full and ample manner as I myself now use and enjoy the same. Further, that the said trustees shall pay and deliver to my wife during her natural life such sum and sums of money and other articles, as she may from time to time stand in need of and demand, out of the annual rents and profits of my estate above devised; which devises to my beloved wife shall be deemed and taken to be in lieu and full satisfaction of her dower or thirds at common law. It is nevertheless my intent and meaning that one or more of the trustees shall cause an inventory to be made of the moveable goods in and about my dwelling-house, such as horses, horned cattle, hogs, waggon, beds, chairs, tables, and household furniture in general, and of every thing in the store or cellars; yet my dear wife shall have power and authority to use the said articles as she may think right and reasonable; but after her death whatever may remain of the personal property which was in the hands and possession of my wife shall return to and be vested in the general fund of my estate, which is hereinafter appropriated for the support of the orphan-house: And further it is my intent and meaning, that all my real estate above devised to the trustees aforesaid, (except such part of it as I have appointed to the use of my wife during her natural life, and also that part from and after her decease) shall enure to and be vested in the trustees aforesaid, and the survivors and survivor of them and the heirs and assigns of such survivor, in trust and confidence and to the intent and purpose, that the annual rents and profits of the said real estate shall be applied to the support of the said orphan-house, and to the maintenance and education of so many poor and orphan children (whom I shall more particularly designate) as the proceeds of the estate will bear. And in aid of the aggregate fund which may be formed in the hands of the trustees out of the rents and profits of my real estate, I do hereby bequeath to them the survivors and the survivor of them, all and singular my personal goods and effects of what nature and kind soever it may be, (subject to the appointments to my wife) to be by them the survivors and survivor of them applied to the same uses and purposes as is directed as to the rents and profits of my real estate.

For the better ordering and governing the orphan-house contemplated to be established by this my last will, I do ordain and declare that the trustees aforesaid, shall be members of that institution. A person whom I shall hereinafter nominate, shall be styled the Principal of the orphan-house, (*Waysenvater*) and also a person who shall be the Tutor, shall also be members of the institution. That these persons shall immediately, or within one year after my decease, (if they have funds sufficient in their hands) proceed to carry this my last will into effect; but if such funds shall not suffice for that purpose, then I do direct that such proceedings shall be adopted at farthest, within two years after my death. As it is my intention that the rents and profits of my real estate, and also the personal estate herein before devised and bequeathed, shall in perpetuity be applied to the charitable purpose aforesaid, it is my desire, as far as in me lies, so to modify and fix the manner of the election of the trustees and other officers of the institution, that there may not at any time be a failure of functionaries to manage and conduct the economy of the orphan-house according to the true intent and meaning of this my last will, I therefore declare it to be my will, in case of the death of either of the trustees aforesaid, or if a trustee who shall come in by election as herein after directed dies, or in case any of the trustees aforesaid, whether in by nomination or election, shall remove from the county of Dauphin, or in case a trustee, whether by nomination or election, shall neglect by the space of three months to perform the duties of trustee under this my will, or shall refuse to perform those duties, that then the remaining or acting trustees, together with the principal and the tutor, shall within one calendar month after the happening of either of the contingencies aforesaid, convene at the orphan-house, and then and there by a majority of voices, elect a freeholder of the county of Dauphin, and resident within the same county, as a trustee instead of the trustee so dying or removing, or neglecting or refusing to perform the duties of a trustee, which election shall be fairly entered in a book to be kept for that purpose in the orphan-house. And further, it is my will that the person so elected a trustee, shall forthwith be vested with all the rights, powers and privileges of a trustee under this my last will, in as full and ample manner as any of the trustees herein before named personally.

And further, it is my will that in case of the death, removal from the county, dismissal from office for any of the causes hereinafter set forth, of the principal, or of the tutor, or of either of them, that then the trustees shall make entries of the facts in the book aforesaid; and if a tutor is to be elected with the principal, or if the principal is to be elected with the tutor, immediately by a majority of voices, elect an honest, sober, and qualified person to fill the vacant office, as the case may be; of which election fair entries shall be made in the book aforesaid, and from thenceforth the person so elected shall be entitled to, and hold and enjoy all the rights, powers and privileges and emoluments attached to the office to which he has been elected.

And to the intent that all future litigation on this subject shall be precluded and done away as speedily as possible, whether it relates to the election or elections of a trustee or trustees, a principal or tutor, it is further my will and desire, that a return of such election or elections shall, by the said trustees, or by a majority of them, be laid before the judges of the court of common pleas for the time being, in and for the said county of Dauphin, at the next stated term of the said court, or at an adjourned court next following such election or elections, as the case may be.

And if the said judges, or a majority of those who shall be then present, shall be of opinion that such election or elections, is or are made in conformity to this the directions of my last will, that then they shall confirm the same, and such confirmation shall be final and conclusive, and absolutely debar all and every other court now existing, or which shall hereafter exist within Pennsylvania, from exercising any authority, power, or jurisdiction over, about, or concerning such election or elections. But if it should appear to the said judges, that said election or elections is, or are not in conformity to the directions aforesaid, that then it shall be the duty of the said trustees and other officers of the institution, within one calendar month thereafter, to proceed to a new election or elections, as herein before directed. And further it is my will that if a trustee, whether he be nominated by me or come in by election as is herein before prescribed, shall remove out of the county of Dauphin, or if a trustee shall neglect or refuse to perform the duties of a trustee, or if the election or elections of a trustee, principal, or tutor, has or have not been made in conformity with the directions of this my last will, that then and in every such case of a removal, neglect, or refusal, or of defective election, the trustee, principal, or tutor, shall severally and respectively be divested of all right, title, power, authority, and emolument, derived under this my last will; but nothing herein specified shall be taken to exclude such persons (they being otherwise duly qualified) from being re-elected to those offices respectively.

For the purpose of directing, controlling, and explaining to the trustees and officers of the orphan-house, my will as to the economy of the house, I shall in this place undertake so far as human frailty will permit, to draw an outline of the duties enjoined upon their respective stations and offices.

I. Of the duties of the Trustees.

1. The trustees shall at all times hereafter have power to convene the principal before them, or a majority of them, with his papers and books of accounts, and minutely to examine whether such accounts are honest and accurate as becomes a christian.

2. If it should appear upon any such examination, that the accounts of the principal are wilfully inaccurate and unjust, or that he is careless in the management of the concerns of the institution, or that he is addicted to any enormous vices, such as inebriety, swearing, lying, gambling, cheating, and the like, the trustees shall have power to displace him, and elect another in his stead, in the manner above directed.

3. It shall be the duty of the trustees and the principal, once in every month if it be necessary, or once in every two months at farthest, to meet at the orphan-house, and liquidate the accounts of the institution; and to examine into the method of husbandry and agriculture pursued upon the lands of the institution, and to suggest to each other and consult upon such subjects as may tend to the benefit and advantage of the trust estate; for this service each person above named, shall receive one dollar per day out of the funds of the institution.

4. The trustees shall have power, together with the principal, to build or finish the orphan-house, (if that is not done before my death) and also to add or make any new buildings thereto, if it shall be deemed necessary and useful to the institution; in the doing of which I enjoin it upon them to have an eye to economy, as well as to the comfort and conveniency of those who shall hereafter inhabit the house. It is also my will, that if hereafter the trustees and principal, finding that the funds of the institution are adequate to such purposes, and that it will contribute to its benefit, shall have power to erect any other mill or mills, or machinery or water work, for or in aid of manufactories, on the mill-race or canal aforesaid; so also they shall have power to erect any other buildings on the lots near or adjoining to the dwelling-houses aforesaid, and on the several farms, if they shall deem it necessary and beneficial to the institution; but it is expressly my intention, and I do hereby declare it to be my will, that no part of the estate herein before devised to the said trustees, shall ever hereafter be sold, or in any manner severed from the orphan-house, but that it shall remain united thereto, whole and undivided for ever.

5. When the orphan-house shall be in a state suitable to the reception of its inhabitants, it is my will and direction to the trustees, the principal and the tutor, that they shall receive into it for the purpose of maintenance and education, (free from all expense or charge to the children or their relatives) all such poor, but healthy orphan children, as shall be of the age of five years and under the age of twelve years, whether they be boys or girls. The trustees, principal, and tutor, shall, nevertheless, have power to receive into the orphan-house, and they are hereby enjoined to maintain and educate poor children within the age aforesaid, whose parents from want of property, are unable to maintain or educate them; but in this particular the discretion of the trustees and other officers, shall be governed by the extent of the existing funds of the orphan-house, at the time of the application for admission. These children shall be admitted upon this express condition: that is, that the children, both male and female, shall be educated in the evangelical Lutheran religion, and in the German language; nor shall any other language than the German be taught in the orphan-house. It is further my will, that the children thus received into and educated in the orphan-house, may remain there, the boys until the age of fifteen years, and the girls until the age of fourteen years, at which several and respec-

tive ages, they shall each of them receive a freedom suit. If, however, any of those children, whether boys or girls, when they arrive at the ages of fifteen and fourteen years respectively, shall be inclined to remain in the institution, in the manner and upon the terms the trustees and officers can reasonably offer to others, then it is my will those children shall have a preference, and be engaged and employed, either in the household, the agriculture, or the arts and manufactures, such as the industry, care, and economy of the institution in future times may be able to afford them.

II. *Of the duties of the Principal of the orphan-house.*

1. The principal shall have the immediate superintendence and management of the whole estate herein before devised to the trustees for the use of the orphan-house; and it shall be his particular and appropriate duty, to oversee and direct the agricultural concerns thereof: nevertheless, in this as in every other part of his official duties, he shall be subject to the advice, and conform to the directions of the trustees, or a majority of them.

2. The principal shall keep a regular book or books, in which he shall correctly state all the receipts as they happen daily, and all the daily expenditures, so that at the end of a month or of every second month at farthest, he shall account honestly and correctly: (as a good christian ought) with the trustees.

3. The principal shall be permitted with his family to reside in one of the four houses above mentioned and have a free table for himself and his family, to be furnished him out of the proceeds of the trust estate, and also two hundred and sixty-six dollars and sixty-seven cents yearly, and every year during his continuance in office as principal of the orphan-house.

4. It shall be the duty of the principal to take upon himself the care and superintendence of the mill and other water-works and machinery which may hereafter be erected on the mill-race or canal. He shall keep a book or books in the manner I have hitherto done. When he buys wheat or sells flour, or when he sends flour to market to whom and by whom it is sent, all shall be correctly and regularly entered. In short, he shall keep an exact account or accounts of all the receipts and payments relative to the mill or other water-works.

5. He shall have power to hire millers and other artizans of honest and faithful characters and demeanor, from time to time, as it may be necessary, and shall closely observe that their accounts be accurate and clear.

6. He shall take care that the mill, dwelling-houses, farm-houses and out-houses of all kinds be kept in good repair, and that no waste or destruction happens, and if any such should happen, he shall, as soon as convenient, with his other duties, superintend and direct the reparation. If the principal has children of his own who are competent to labour, they shall have reasonable wages when they shall labour for the institution. If the principal by reason of old age shall be incapable to fulfill the duties of his office and had conducted faithfully and honestly therein, he shall

be supported during his life out of the funds of the institution, and if he has a son who is equally well disposed, honest and faithful, he shall have preference given him by the trustees and tutor and be appointed as principal in the stead of his superannuated or deceased father.

III. *Of the Duties of the Tutor.*

In regard to these duties, which will be numerous, various and arduous, much must depend upon the piety, industry and good sense of the tutor, as well as upon his bodily health and the different ages, sexes, industry, capacity and talents of the pupils, as on the state of the church to which this institution will be allied, its government in clerical matters and the discipline in its schools: Hence there seems to be a necessity to devolve upon the trustees, the principal and the tutor conjunctively, or by a majority of voices, a power of modifying and conforming the mode of tuition of the pupils of the institution to the orthodox belief of the church and the method practised in its schools, under a sincere hope however that the Almighty has enlightened my understanding in this my weak effort to disseminate a knowledge of his grace toward mankind, to the fatherless and the needy, and firmly believing that he will sanction by his blessings my endeavours to comfort in this life the forlorn and distressed infant, I do herein direct that the following rules and regulations shall for the present be observed by the tutor.

It shall be the duty of the tutor at the ringing of a bell at six of the clock in the morning, (in a room or hall to be appropriated for pious purposes in the orphan-house) to sing a morning or other pious hymn with the children, and then to pray a morning blessing, kneeling together with the Lord's prayer. They shall afterwards repeat the christian belief and the principles of the Lutheran catechism. Breakfast shall then follow. After breakfast the school shall be kept for two hours, in which the pupils shall be taught reading, writing and arithmetic, and particularly shall be instructed in the aforesaid catechism until about nine of the clock; then they shall work in the garden or be employed in some other useful manner. In what relates to the garden I enjoin upon my trustees, the principal and tutor, that they shall lay off and appropriate ten acres of ground contiguous to the orphan-house, which shall be cultivated principally as a kitchen-garden, for the use of those who shall dwell in the orphan-house; and if there should be a surplus produce, to the profit of the general fund of the institution; yet it is not my idea that the gardening shall by any means be confined merely to the supply of the kitchen, but it is my desire that it may be decorated with all the fine fruits of the climate such as apples, pears, cherries, peaches, grapes, and so forth, in all their varieties. Besides the usual vegetables of a kitchen garden, hemp and flax shall be raised for the industry of the orphan-house. About eleven of the clock in the forenoon the bell shall ring again; a thanksgiving, accompanied by the ceremonial of the knee prayers and belief, as in the morning shall be repeated. The children shall then dine. After dining there shall be school for two hours,

and then they shall again work in the garden. In the evening, about six of the clock, a bell shall again be rung, an evening hymn or other religious hymn shall be sung with the children, and the ceremonial and prayers of the morning be again repeated. In winter, after supper, the girls about six years old shall be taught to spin. When the children have been taught to read, one of the boys shall repeat a chapter out of the bible.

2. An orphan shall not be permitted to leave the orphan-house without leave from the tutor; and if a child should be stubborn, contumelious or disobedient and incorrigible, the trustees shall bind it to a trade according to the law of the land.

3. When the tutor shall have occasion to send of an errand, he shall not send one child singly but two together, either two boys or two girls.

4. If the tutor shall observe any child addict itself to lying, or any other immoral behaviour or language, he must be sure to correct the offender.

5. When the principal is at hay-making the tutor shall direct so many children as he may want to assist him. So when apples are brought from the farms, the children shall cut and dry them. If the boys possess enough bodily strength they shall assist the principal in taking care of the cattle of the institution, and other work which may be necessary, between school hours.

6. After a time, when the trustees, &c. shall find it comport with the funds of the institution, the weaver's art shall be introduced into the orphan-house; as it is my intention that children at all seasons shall be clothed in home manufactures. The boys in brown. The under garments of the girls, shall be linsey-wolsey, but their upper garments shall be of blue striped cotton stuffs, so that each of the sexes shall have peculiar and uniform clothing, to be given annually at the feast of Eastern.

7. The tutoress, or some other woman well qualified for the purpose, shall teach the girls needlework, knitting and spinning. If any of the children should be sick, it is my desire that those in health, particularly the girls, shall be assistant in washing, cleansing, &c. so that every thing may be kept in neatness and good order.

8. It is my desire, that the utmost care be applied to the instruction of the children in good morals, and sound religious principles, in order that they may become sober, industrious and worthy citizens. Therefore no books shall be used in the schools of the institution, but such as have those tendencies.

9. When a child is near fourteen years old, it shall be confirmed, and afterwards be admitted to the holy sacrament of the Lord's supper.

10. The tutor, (who must be a married man,) shall reside in the orphan-house, and have a free table for himself and family, to be furnished to him out of the proceeds of the trust estate, and also two hundred dollars yearly, and every year during his continuance in office as tutor of the orphan-house. If the tutor has conducted faithfully and industriously, and by reason of old age, cannot

continue to fulfill the duties of his office, he shall be supported during life, out of the funds of the institution, and an allowance made him annually at the discretion of the trustees. It is further my will and desire, that if there should be any evil report circulated concerning a trustee, principal or tutor, which frequently may happen in their stations, the trustees, principal and tutor, shall examine the matter according to the exhortation of Jesus, Matthew ch. 18, v. 15—17, but if the charge be of a vicious and immoral nature, or comes within the description contained in the second article, under the first head of duties, and the party is found guilty, they shall have power to dismiss him from office, and elect another in his stead, as is in herein before directed, which election shall be subject to the same rules and regulations as other elections under this my last will.

As from the imbecility of the human character, and the versatility of the affairs of this world, it is rendered almost impossible to provide such checks and restraints as will in all events, guard against the arts and impositions of wily and designing men, it therefore is my further will and desire, that the trustees, the principal, and the tutor, or a majority of them, for the time being, shall annually forever after my death, submit to the court and grand jury of the county of Dauphin, at the first court of general quarter sessions of the peace which shall be holden in and for the same county in the beginning of the year, a statement of all their accounts relative to the orphan-house and the estate hereinbefore devised for the support thereof, for the year preceding such submission. Such accounts shall contain a particular statement of the receipts for that year, whence derived, and for what; and also a particular statement of the disbursements for that year, and be accompanied by sufficient vouchers. And if the court aforesaid should require it, the trustees, principal, and tutor, or some of them, shall lay before the said court and grand jury, once in every year, a particular statement of the number of children, male and female, with their respective ages, who have been maintained and educated in the said orphan-house for one or more years preceding. But if the accounts so to be annually submitted, shall in the opinion of the court be too voluminous or intricate for examination during the then session, it is my will, and I do hereby authorise and empower the said court to nominate and appoint three respectable members of the same grand jury, who shall have power during the ensuing vacation, to examine, liquidate, and settle the same accounts, and to make report thereof to the then next court, which report, if approved, shall be final and conclusive to the accountants. The balance so found, if in favour of the accountants, shall be placed to their credit; if against them, shall go to their debit in their accounts for the ensuing year. If the said trustees, principal, and tutor, shall, after my death, neglect or refuse to exhibit and submit such accounts at the time and in the manner above directed, it is my will and desire, that the said court of general quarter sessions of the peace shall have power and authority, by attachment or otherwise, to compel the said trustees, principal, and tutor, to account as aforesaid.

It is further my will, and I do hereby authorise and empower the judges of the court of common pleas, for the time being, in and for the county of Dauphin, at the first stated term in each year after my death, by a majority of voices, to nominate and appoint a respectable freeholder of the county of Dauphin, as visitor of the orphan-house. It shall be the duty of the visitor, and he shall have a right, power, and authority, without denial, hindrance, molestation, or impediment from the trustees, principal, or tutor, or any of them, or from any person or persons under their care, or in their employ, to enter into the said orphan-house, and into every part thereof, and into all the buildings and out-houses appertaining thereto and every of them, as also into the mill or mills and other water-works, as also into all and every of the dwelling houses, shop or shops, and out-houses appertaining to them or either of them, and also into the farms, houses, barns, stables, and other out-houses belonging thereto, for the purpose of inspection, and that twice in the year, viz. once in the spring and once in autumn. The precise time shall be in the discretion of the visitor. In the course of the visitor's inspection, a trustee or trustees, the principal of the orphan-house and tutor (they having severally forty-eight hours previous notice in writing, of the time of the intended visitation) shall accompany the visitor, and feely and candidly answer any questions he may propose to them or either of them respecting the economy of the orphan-house, the mill or mills, or other water-works, the manufactories of the institution, the garden, the farms, the method of culture of each, and concerning the expenditure of labour or money upon, and product of each and every of them.

2. The visitor shall inquire into and inspect the manner of tuition of the orphans—how they are employed between school hours—of their behaviour, morally and religiously—concerning their food, their cloathing, their bedding, and in general to ascertain from actual view and observation whether the economy of the institution is conducted upon principles such as my bounty and the directions of this my last will do require.

3. The visitor at the then next court of common pleas after such visitation shall make report to the said court, in detail of his observations upon the appropriation and management of the funds of the institution. The court upon such report being made, may approve thereof, or if they be a good ground laid in such report for so doing, may censure or reprimand a trustee or trustees, principal or tutor for negligence or mismanagement in the economy of the institution by them or any of them. But if it appears to the said court of common pleas, that great dilapidations have been permitted by the principal, or that a trustee or trustees, the principal or tutor, have been guilty of a gross and vicious misapplication of the funds of the institution, the said court shall have power and authority, in a summary way, to remove such trustee or trustees, principal or tutor, as the case may be, from office: upon which removal, it shall be the duty of the remaining trustee or trustees, principal or tutor, as the case may be, to elect a person or persons in the stead and place of such trustee or trustees,

principal or tutor so removed: which election shall be conducted in the same manner, and be subject to the same rules and regulations, are herein as before directed, as to elections. But no trustee, principal or tutor, who has been removed from office for dilapidation or misapplication of the funds of the institution as aforesaid, shall be eligible to any office or employment in the orphan-house, or the estate thereto appertaining.

It is further my will and intention, that whensoever the town of Middletown, shall become an incorporated borough, that then, and from henceforth, the power of the court of common pleas aforesaid, to nominate and appoint a visitor, shall cease, determine, and become absolutely void; and that the power and authority and privileges delegated by me to the visitor, shall be immediately transferred to, and be vested in the burgesses of the borough of Middletown forever; and be exercised by them in the same extent and manner, and subject to the same duties as the visitor appointed by the court of common pleas had and held the same.

If in the dispensation of Providence, it should so occur that this institution, the benefits of which I would have to descend to future ages, should fail or be dissolved, because of the death, emigration or removal of the trustees and other officers, for dilapidation or mismanagement as aforesaid, or in consequence of some public calamity or other means, it is my will and desire, that then the governor of Pennsylvania, for the time being, shall have power and authority to nominate and appoint in writing, under his hand and the less seal of the state, such and so many trustees, a principal of the orphan-house and a tutor, as I have herein before named, according to the provisions contained in this my last will. And it is further my will, that the persons so to be appointed by the governor of Pennsylvania, shall forthwith hold and enjoy their several and respective offices of trustees, principal and tutor, with all the powers, rights, privileges and emoluments of their several and respective offices, as fully and amply as the trustees, principal and tutor herein personally named, and be subject to the same duties, and be accountable in the same manner as is herein directed.

And further it is my will, and I do hereby devise to the trustees first and personally named in this my last will, and to the survivors and survivor of them and to the heirs and assigns of such survivor all that tract or parcel of land, situate in Middle-creek, in Penns township in the county of Northumberland, containing two hundred and seven acres and thirty-eight perches, be the same more or less, and which is known by the name of Beaverdam, to hold to them and the survivors and survivor of them; and to the heirs and assigns of such survivor in trust, and to the intent, that they or the survivors or survivor of them, immediately after my decease, shall sell the same to the best bidder, and for the highest sum that can be gotten therefor, in fee simple; and that the money arising from such sale, shall be applied to the same uses and purposes as is directed herein, as to the rents and profits of my real estate, herein before devised.

It is further my will, that if hereafter any legacy, bequest or donation should be bequeathed or given to the Emaus orphan-house

when it shall be incorporated, or before that period, to the trustees, principal or tutor, or either of them by name, for the use of the institution, that the principal shall enter such legacy, bequest or donation in a book to be kept in the orphan-house for that purpose—noting particularly the name of the donor, (if that is permitted by him or her,) the time and amount of the donation, and once in every year about the anniversary of such donation, if a sermon should be then preached in the orphan-house, the clergyman shall mention publicly the circumstances of such bounty.

And further it is my will, that the trustees, who shall hereafter be elected, by virtue of this my last will, shall be respectable freeholders, of the county of Dauphin, of good moral and religious characters, and be regular members of some one of the churches of the protestant religion, but the principal of the orphan-house, and the tutor shall at all times hereafter, be persons of sound religious principles, of good morals, and be regular members of the evangelical Lutheran religion according to the Augsburg confession.

Further it is my will, and I do hereby nominate and appoint John Cassel aforesaid yeoman, as the principal of the orphan-house, to hold and enjoy the same office, in the manner and upon the terms herein before set forth. And I do hereby nominate and appoint _____ as the tutor of the orphan-house, to hold and enjoy the same office, upon the terms, and the manner herein before set forth.

And further it is my will and desire, that the trustees, the principal and the tutor, at the session of the legislature of Pennsylvania, next after my decease, shall apply by petition to his Excellency the Governor, and the Honorable the Senate and House of Representatives, that they will severally pass an act, constituting the said trustees, principal of the orphan-house and tutor, a body politic and corporate, by the style and title of the Emaus orphan-house, with the usual and necessary corporate powers, as nearly conformable to the spirit and meaning of this my last will as may be.

Lastly, I do hereby nominate and appoint the trustees herein first and personally named, the survivors and survivor of them, executors of this my last will and testament, and do hereby revoke, annul, and make void, all other will or wills, testament or testaments, by me heretofore made. In witness whereof, I hereto set my hand and seal, the twelfth day of May, in the year of our Lord one thousand eight hundred and six, 1806.

GEORGE FREY,

~~~~~  
 { L. S. }  
 ~~~~~

Signed, sealed, published, pronounced and
 declared by the testator, as, and for his last
 will and testament, in presence of us

JOHN BLATTENBERGER, JUN.

ABRAHAM RIFE,

CHARLES BRANDON.

Proved May 31, 1806.

I, George Frey, of Middletown, in the county of Dauphin, and commonwealth of Pennsylvania, merchant, do make this codicil to be taken as part of my last will and testament. It is my will that all my real estate of whatever kind not otherwise appropriated or mentioned in my last will and testament, shall be sold when convenient, and the monies arising from such sales to be put into the hands of the trustees mentioned in my said last will, for the use of the charitable institution or orphan-house mentioned in my said last will. It is also my will that all monies due to me on bond note, or book account, or otherwise, when recovered, shall also be put into the hands of the aforesaid trustees for the use and benefit of the said charitable institution or orphan-house; and as there are several tracts of land now in controversy, and suits have commenced for the recovery thereof, and probably more controversies may arise respecting lands which I claim as my right, it is my will that all such lands shall be recovered as soon as the nature of the case may admit, and the lands sold, and the monies thereof be appropriated as aforesaid; and I do hereby nominate and appoint my trusty and loving friend John Crabb, Sen. of Middletown aforesaid, and now residing in my family, to be my agent in carrying on all suits for the recovery of all lands in controversy; and also, I do hereby nominate and appoint the said John Crabb, Sen. my lawful agent to recover all other monies which may be endue me in any wise, and for which he, the said John Crabb, shall receive ten pounds out of every hundred pounds for all such monies so recovered either by the sale of lands or otherwise; and the said John Crabb is to reside with my family and is to have one hundred dollars each and every year while he remains in said employment, over and above the said ten pounds out of each hundred pounds. It is also my will, that present german school now kept by Frederick Miller, in Middletown, shall continue and be kept in the same manner and under the same regulations and emoluments as heretofore, until such time as the said orphan-house shall be completed. And further, it is my will that the said John Crabb, my agent, shall be allowed to keep a horse, and to have money to bear his reasonable expenses while on business aforesaid. In witness whereof I have hereunto set my hand and seal, the twelfth day of May, in the year of our Lord one thousand eight hundred and six.

GEORGE FREY,



Signed, sealed, published, pronounced and
declared by the testator as a codicil to his
last will and testament, in presence of us, }

JOHN BLATTENBERGER, JUN.

ABRAHAM RIFE,

CHARLES BRANDON.

Proved May 31, 1806.

DAUPHIN COUNTY, SS.

I, John Cameron, Register for the probate of wills and granting letters of administration in and for said county, do hereby certify that the foregoing written and printed pages, are a correct copy taken from the original will and codicil of George Frey, dec'd. which remains filed of record in the said office. In testimony whereof I have hereunto set my hand and affixed the seal of said office, at Harrisburg, this seventh day of May A. D. 1829.

JOHN CAMERON, Register.

In the Circuit Court of Dauphin county.

John Landis, Charles Fisher,
Jacob Rife, and John Cassell.

vs

Catharine Shultz, Hugh Turner,
and Maria, his wife.

Of December 1806. No. 2.

Feigned issue directed by the Register to try the validity of a certain instrument of writing purporting to be the last will and testament and codicil of George Frey, dec'd.

16th April, 1807. Present the Chief Justice of the Supreme court. A special jury of the county being called, impannelled, elected, sworn and affirmed respectively, say that they find for the plaintiff for the will, and for the defendant, for the codicil judgment.

The above is taken from the record.

Montgomery and Dexter, Printers.

HARRISBURG, PA.

1830.

Montgomery and James, printers,

WATERBURY, CT.

1880.